

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

Editor's Note: The following Notices of Final Exempt Rulemaking were reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2464.) The Governor's Office authorized the notice to proceed through the rulemaking process on August 8, 2014.

[R14-131]

PREAMBLE

- 1. Articles, Parts, or Sections Affected (as applicable)**

R3-2-203	Amend
R3-2-701	Amend
R3-2-810	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2014, 2nd Reg. Sess., Ch. 9, § 5.

Implementing statute: Laws 2014, 2nd Reg. Sess., Ch. 9, § 5; A.R.S. §§ 3-607; 3-619(A); 3-1337; 3-2003; 3-2081.

Exemption: Laws 2014, 2nd Reg. Sess., Ch. 9, § 5.
- 3. The effective date of the rule and the agency's reason it selected the effective date:**

July 24, 2014. The effective date of the rule is based on the effective date of the law authorizing the rulemaking.
- 4. A list of all notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

None
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name:	Leatta McLaughlin, Associate Director
Address:	Department of Agriculture 1688 W. Adams Phoenix, AZ 85007
Telephone:	(602) 542-7186
Fax:	(602) 542-4290
E-mail:	lmclaughlin@azda.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

This rulemaking continues certain fees increased in fiscal years 2011 through 2014 for fiscal year 2015 for services provided in fiscal year 2015. See Notice of Exempt Rulemaking: 19 A.A.R. 3127, Oct. 11, 2013; 18 A.A.R. 2060, Aug. 24, 2012; 17 A.A.R. 1756, Sept. 2, 2011; & 16 A.A.R. 1331, July 23, 2010. The legislature appropriates general funds to the Department based on projected revenues from these fees, and then when these fees are collected, they will be returned to the general fund. In essence, the legislature advances the funds anticipated to be collected during the year from these fees with the expectation that the Department will return what is actually collected. By continuing these fee increases, the Department anticipates it will be able to collect an amount similar to that appropriated by the legislature for this purpose.

Notices of Exempt Rulemaking

The service charge fee for livestock inspection under A.R.S. § 3-1337 will be ten dollars, which is the same fee charged for fiscal years 2009 through 2014.

The license to slaughter fees under A.R.S. § 3-2003 will continue to be \$250, \$300 and \$450. The fees for processing, pet food manufacturing, and meat transportation licenses will continue to be \$300, broker, jobber, and meat storage licenses will continue to be \$450, and distributor licenses will continue to be \$500. *See* A.R.S. § 3-2081.

Manufacturing milk processing plant and wholesale distributor licenses will continue to be \$100 and milk sampler licenses and renewals will continue to be \$50 and \$30 respectively. Distributing plant licenses will continue to cost \$300 plus \$2,500 for each of the facility's pasteurizers. Similarly, producer-distributor licenses for IMS (interstate milk shipper) listed facilities will continue to cost \$150 plus \$2,500 for each of the facility's pasteurizers. The license fee for non-IMS listed producer-distributors will continue to be \$150, the same rate as the prior six years. The Department performs quarterly inspections on pasteurizers, which is why it determined to base fees on the number of pasteurizers. *See* A.R.S. §§ 3-607 and 3-619.

The fee for a license to engage in the manufacture of dairy trade products will continue to be \$100, the amount set out in A.R.S. § 3-665(B). This fee is included in the rule only for completeness.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact, if applicable:

Laws 2014, 2nd Reg. Sess., Ch. 9, § 5 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to those sections until July 1, 2015. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

The Department of Agriculture Advisory Council voted on June 9, 2014 in favor of continuing the fees set out in this rulemaking through FY2015.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Rule 203 requires a license to conduct certain activities. Rule 701 does not require a permit, and rule 810 sets out fees for certain licenses but does not itself require or establish any permits or licenses. The Department does not use a general permit for rule 203 because that would increase the cost for licensees by requiring them to pay the licensing fee for activities that the licensees do not engage in. Additionally, any duplication of information provided by an applicant to obtain multiple licenses would be minimal.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

15. The full text of the rules follows:

Notices of Exempt Rulemaking

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

ARTICLE 2. MEAT AND POULTRY INSPECTION

Section

R3-2-203. Licenses; Registration; Records

ARTICLE 7. LIVESTOCK INSPECTION

Section

R3-2-701. Department Livestock Inspection

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

Section

R3-2-810. License Fees

ARTICLE 2. MEAT AND POULTRY INSPECTION

R3-2-203. Licenses; Registration; Records

A. No change

1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change

B. No change

1. No change
2. No change
3. No change

C. No change

D. During fiscal year ~~2014~~ 2015, the fee to obtain or renew a license to slaughter is:

1. For not to exceed forty-five head of cattle, and not to exceed fifty-five head of sheep, goats or swine in one calendar year, two hundred fifty dollars.
2. For more than forty-five and not to exceed one hundred fifty head of cattle and more than forty-five and not to exceed one hundred sixty head of sheep, goats or swine in one calendar year, three hundred dollars.
3. For more than one hundred fifty head of cattle and more than one hundred sixty head of sheep, goats or swine in any one calendar year, four hundred fifty dollars.

E. During fiscal year ~~2014~~ 2015, the fee to obtain or renew a meat license is:

1. For a broker, four hundred fifty dollars.
2. For exempt processing, three hundred dollars.
3. For a distributor, five hundred dollars.
4. For a jobber, four hundred fifty dollars.
5. For a pet food manufacturer, three hundred dollars.
6. For a processor, three hundred dollars.
7. For meat storage, four hundred fifty dollars.
8. For transportation, three hundred dollars.

Notices of Exempt Rulemaking

ARTICLE 7. LIVESTOCK INSPECTION

R3-2-701. Department Livestock Inspection

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
- B. No change
- C. No change
- D. During fiscal year ~~2014~~ 2015, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of ten dollars plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

R3-2-810. License Fees

During fiscal year ~~2014~~ 2015, an applicant shall pay the following fee to obtain or renew a dairy license:

- 1. For a license to operate a milk distributing plant or business, three hundred dollars plus two thousand five hundred dollars per pasteurizer.
- 2. For a license to operate a manufacturing milk processing plant, one hundred dollars.
- 3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility, one hundred fifty dollars plus two thousand five hundred dollars per pasteurizer.
- 4. For a license to engage in the business of producer-distributor, one hundred fifty dollars.
- 5. For a license to engage in the business of producer-manufacturer, twenty five dollars.
- 6. For a license to engage in the manufacture of trade products, one hundred dollars.
- 7. For a license to engage in the business of selling at wholesale milk or dairy products, or both, one hundred dollars.
- 8. For a license to sample milk or cream, an initial fee of fifty dollars and a renewal fee of thirty dollars.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE
ENVIRONMENTAL SERVICES DIVISION

[R14-132]

PREAMBLE

- 1. Articles, Parts, or Sections Affected (as applicable)** **Rulemaking Action**
R3-3-702 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2014, 2nd Reg. Sess., Ch. 70, § 1.
Implementing statute: Laws 2014, 2nd Reg. Sess., Ch. 70, § 1; A.R.S. § 3-351(D).
Exemption: Laws 2014, 2nd Reg. Sess., Ch. 70, § 1.
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
July 24, 2014. The effective date of the rule is based on the effective date of the law authorizing the rulemaking.
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Jack Peterson, Associate Director
Address: Department of Agriculture
1688 W. Adams
Phoenix, AZ 85007
Telephone: (602) 542-3575
Fax: (602) 542-0466

Notices of Exempt Rulemaking

E-mail: jpeterson@azda.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

This rulemaking increases the fee to register a pesticide from \$100 to \$110. The Department increased the fee to \$110 in fiscal years 2008-2009, 2009-2010, 2010-2011, 2011-2012 under the authority of Laws 2008, 2nd Reg. Sess., Ch. 291, § 12, Laws 2009, 4th Spec. Sess., Ch. 3, § 23, Laws 2010, 7th Spec. Sess., Ch. 7, § 4, & Laws 2011, 1st Reg. Sess., Ch. 36, § 6. The rule was not amended to continue the fee increase in fiscal years 2012-2013 and 2013-2014. Thus, this rulemaking reestablishes the fee the Department charged in previous fiscal years for fiscal years 2014-2015 and 2015-2016.

The fee increase in this rulemaking is expected to return revenue to a level consistent with fee increases made in fiscal years 2008-2009, 2009-2010, 2010-2011 and 2011-2012. The Department anticipates that the \$10 increase will raise approximately \$120,000 per year in fiscal years 2014-2015 and 2015-2016. The companies that sell pesticides in Arizona will bear the increased cost, which the Department believes will have a minimal effect on those companies. Revenue from the fee increase will provide the Department with more resources to address proper pesticide disposal, offsetting potential future environmental costs associated with pesticide waste.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact, if applicable:

Laws 2014, 2nd Reg. Sess., Ch. 70, § 1 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to the section until July 1, 2016. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

The Department of Agriculture Advisory Council voted in favor of adoption of the fee increase set out in this rulemaking on June 9, 2014.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit. A.R.S. § 3-351(A) requires pesticide registration. The rule establishes the information required to register and the fee for the service.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law establishes requirements for registration of pesticides with the Environmental Protection Agency. 7 U.S.C.A. § 136a; 40 C.F.R. Part 152. Federal law also allows the State to regulate the sale or use of any federally registered pesticide or device in the State, if the regulation does not allow any sale or use prohibited by federal law. 7 U.S.C.A. § 136v. The rule is not more stringent than federal law. The rule establishes the state pesticide registration form and fee in conformance with the applicable federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

Notices of Exempt Rulemaking

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 3. DEPARTMENT OF AGRICULTURE
ENVIRONMENTAL SERVICES DIVISION**

ARTICLE 7. PESTICIDE

Section

R3-3-702. Pesticide Registration; Fee

ARTICLE 7. PESTICIDE

R3-3-702. Pesticide Registration; Fee

- A.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. No change
- B.** No change
- C.** No change
- D.** Notwithstanding subsection (A), during fiscal year ~~2011~~ years 2015 and 2016, a person registering a pesticide or renewing a pesticide registration shall pay a \$110 fee for each pesticide for each year of registration.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

**CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION**

[R14-130]

PREAMBLE

- | | |
|-----------------------------------------------------------------|---------------------------------|
| 1. Articles, Parts, or Sections Affected (as applicable) | <u>Rulemaking Action</u> |
| R3-4-301 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
- Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2014, 2nd Reg. Sess., Ch. 9, § 5.
- Implementing statute: Laws 2014, 2nd Reg. Sess., Ch. 9, § 5; A.R.S. §§ 3-201.01(A)(5); 3-217.
- Exemption: Laws 2014, 2nd Reg. Sess., Ch. 9, § 5.
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
- July 24, 2014. The effective date of the rule is based on the effective date of the law authorizing the rulemaking.
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
- None
- 5. The agency's contact person who can answer questions about the rulemaking:**
- Name: G. John Caravetta, Associate Director

Notices of Exempt Rulemaking

Address: Department of Agriculture
1688 W. Adams
Phoenix, AZ 85007

Telephone: (602) 542-0996

Fax: (602) 542-0922

E-mail: jcaravetta@azda.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

This rulemaking continues nursery certification fees from fiscal years 2011 through 2014 in fiscal year 2015 for services provided in fiscal year 2015 in order to make up for decreases in general fund appropriations. See Notice of Exempt Rulemaking: 19 A.A.R. 3143, Oct. 11, 2013; 18 A.A.R. 2063, Aug. 24, 2012; 17 A.A.R. 1761, Sept. 2, 2011; & 16 A.A.R. 1336, July 23, 2010. By continuing these fees and fees related to phytosanitary certification generally, the Department anticipates it will be able to maintain its current level of services pertaining to the plant services division for fiscal year 2015.

With this rulemaking, the Department will continue to charge \$250 for general nursery stock inspection certification, and the fee for single shipment nursery stock inspection certification (also known as state nursery stock phytosanitary certification) will continue to be \$50 plus \$10 per additional lot.

The applicant informs the Department how many lots the applicant has, and the Department issues a separate certificate for each lot. Some applicants elect to artificially divide their nursery stock shipment into several small lots because if the state of import rejects part of a lot, the entire lot is rejected. By designating multiple lots, the shipper can reduce the risk of having its entire shipment rejected. However, shippers' practice of designating multiple lots for a single shipment creates extra work for the Department in issuing multiple certificates, which is another reason for continuing this fee for another fiscal year.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact, if applicable:

Laws 2014, 2nd Reg. Sess., Ch. 9, § 5 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to those sections until July 1, 2015. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

The Department of Agriculture Advisory Council voted on June 9, 2014 in favor of continuing the fees set out in this rulemaking through FY2015.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit. The nursery certification program is voluntary.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material and its location in the rule:

Notices of Exempt Rulemaking

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

No

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION**

ARTICLE 3. NURSERY CERTIFICATION PROGRAM

Section

R3-4-301. Nursery Certification

ARTICLE 3. NURSERY CERTIFICATION PROGRAM

R3-4-301. Nursery Certification

- A.** No change
- B.** No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. No change
- C.** No change
 - 1. No change
 - 2. No change
 - 3. No change
- D.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- E.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
- F.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- G.** Notwithstanding subsections (B)-(D), during fiscal year ~~2014~~ 2015, an applicant for nursery stock inspection certification shall pay the following fee:
 - 1. For general certification, two hundred fifty dollars.

Notices of Exempt Rulemaking

2. For single shipment certification, fifty dollars for the first lot plus ten dollars for each additional lot per Department site trip.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

[R14-129]

PREAMBLE

- 1. Articles, Parts, or Sections Affected (as applicable)** **Rulemaking Action**
R3-6-102 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 3-107(A)(1) and (B)(3); Laws 2014, 2nd Reg. Sess., Ch. 9, § 5.
Implementing statute: Laws 2014, 2nd Reg. Sess., Ch. 9, § 5; A.R.S. § 3-109.02(A).
Exemption: Laws 2014, 2nd Reg. Sess., Ch. 9, § 5; A.R.S. § 41-1005(A)(5).
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
July 24, 2014. The effective date of the rule is based on the effective date of the law authorizing the rulemaking.
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: G. John Caravetta, Associate Director
Address: Department of Agriculture
1688 W. Adams
Phoenix, AZ 85007
Telephone: (602) 542-0996
Fax: (602) 542-0922
E-mail: jcaravetta@azda.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

This rulemaking continues fees from fiscal years 2011 through 2014 in fiscal year 2015 for services provided in fiscal year 2015 for phytosanitary certification in order to make up for decreases in general fund appropriations. See Notice of Exempt Rulemaking: 19 A.A.R. 3146, Oct. 11, 2013; 18 A.A.R. 2066, Aug. 24, 2012; 17 A.A.R. 1765, Sept. 2, 2011; & 16 A.A.R. 1339, July 23, 2010. By continuing these fees and nursery stock inspection certification fees, the Department anticipates it will be able to maintain its current level of services pertaining to the plant services division for fiscal year 2015.

With this rulemaking, the fee for state phytosanitary certification continues to be \$50 plus \$10 per additional lot and the fee for federal phytosanitary certification continues to be \$50. In addition to the \$50 fee for federal phytosanitary certification paid for the benefit of the Department, applicants will continue to pay a federal administrative user fee for the federal government as required by federal law. The federal administrative user fee is currently \$6 for shippers who use the "Phytosanitary Certificate Issuance and Tracking System" paper applications and \$12 for those who do not.

The applicant for state phytosanitary certification informs the Department how many lots the applicant has, and the Department issues a separate certificate for each lot. Some applicants elect to artificially divide their shipment into several small lots because if the state of import rejects part of a lot, the entire lot is rejected. By designating multiple lots, the shipper can reduce the risk of having its entire shipment rejected. However, shippers' practice of designating multiple lots for a single shipment creates extra work for the Department in issuing multiple certificates, which is another reason for continuing this fee for another fiscal year.

Notices of Exempt Rulemaking

The reference to 7 CFR 354.3(g)(3)(i) is being updated from the 2013 version to the 2014 version. There is no difference in the subsection between the two versions, and the Department prefers to refer the most current version when possible.

7. **A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

9. **The summary of the economic, small business, and consumer impact, if applicable:**

Laws 2014, 2nd Reg. Sess., Ch. 9, § 5 authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to those sections until July 1, 2015. As a result, this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**

Not applicable.

11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

None received.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

The Department of Agriculture Advisory Council voted on June 9, 2014, in favor of continuing the fees set out in this rulemaking through FY2015.

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule does not require a permit.

- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The federal administrative user fee is set out in 7 CFR 354.3(g)(3)(i). This rule is not more stringent than federal law.

- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No

13. **A list of any incorporated by reference material and its location in the rule:**

7 CFR 354.3(g)(3)(i), revised January 1, 2014, is incorporated by reference in R3-6-102(A)(2).

14. **Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

No

15. **The full text of the rules follows:**

TITLE 3. AGRICULTURE

CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

ARTICLE 1. MARKETING

Section

R3-6-102. Phytosanitary Certification

ARTICLE 1. MARKETING

R3-6-102. Phytosanitary Certification

A. During fiscal year ~~2014~~ 2015, a person who applies to the Department for phytosanitary certification shall pay the follow-

Notices of Exempt Rulemaking

ing fee:

1. For state certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.
2. For federal certification, \$50 plus the federal administrative user fee set out in 7 CFR 354.3(g)(3)(i), revised January 1, ~~2013~~ 2014, which is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available for inspection at the Department, 1688 W Adams St., Phoenix, Arizona 85007 or may also be viewed at <http://www.gpo.gov/fdsys/>.

B. This Section does not apply to phytosanitary certification under A.A.C. R3-4-301.